

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAURIE LEITCH and
HANS FOLDENAUER,

Plaintiffs,

v.

NOAH C. WHITE and
LIBERTY MUTUAL AUTO AND HOME
SERVICES, LLC,

Defendants.

Case No.
Hon.

Removed from
Oceana County Circuit Court
Case No. 22-15624-NI

**NOTICE OF REMOVAL OF CASE
TO THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN - SOUTHERN DIVISION**

TO: United States District Court
Judges of the Western District of Michigan, Southern Division

Defendant LM General Insurance Company, incorrectly named and sued as Liberty Mutual Auto and Home Services, LLC ("LM General"), by and through its counsel, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, submits this Notice of Removal from Michigan State Court, Oceana County Circuit Court, to the United States District Court for the Western District of Michigan – Southern Division, the judicial district in which this action is pending.

In support of this Notice of Removal, LM General states as follows:

1. On December 20, 2022, Plaintiffs Laurie Leitch and Hans Foldenauer filed a Complaint in Oceana County Circuit Court, which was assigned Case No. 22-15624-NI ("State Court Action") and in which LM General is the correct and intended

defendant. *See* Complaint included as part of Exhibit A and LM General Automobile Policy attached as Exhibit B.

2. Plaintiffs executed service of process on LM General by serving the Summons and Complaint via certified mail on LM General's resident agent, CSC-Lawyers Incorporating Service. The Summons and Complaint was received by CSC-Lawyers Incorporating Service via certified mail on December 30, 2022.

3. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served upon LM General in this action – the Summons and Complaint – are attached as Exhibit A.

4. Plaintiffs are residents of Livingston County, Michigan. *See* Complaint, Ex. A, ¶ 1, 2.

5. LM General is an Illinois insurance company, with its principal place of business in Boston, Massachusetts, and conducts business in this District.

6. Noah C. White is a resident of the State of New York.

7. LM General issued Auto Policy AOS24853370640, for the period beginning on July 6, 2022, and ending on July 6, 2023 to Named Insured Laurie Leitch ("LM General Policy"). Ex. B.

8. The Complaint filed in the State Court Action alleges that Plaintiff Laurie Leitch is entitled to personal injury protection benefits and uninsured/underinsured benefits under the LM General Policy for injuries arising when a 2016 Polaris RZR, driven by Defendant White drove off a ledge and crashed on September 2, 2022. *See* Complaint, Ex. A.

9. The Complaint also seeks declaratory relief. *See* Complaint, Ex. A.

10. The Complaint does not plead a specific amount in damages, but alleges that the amount in controversy is in excess of \$25,000 and seeks, in addition to “unlimited” personal injury protections benefits the \$250,000 each person uninsured/underinsured motorist policy limits. *See* Complaint, Ex. A.

11. While LM General disagrees with and disputes Plaintiff’s entitlement to coverage for the losses at issue, the relief and damages sought by Plaintiff Laurie Leitch in the Complaint for her alleged injuries exceeds this Court’s original jurisdictional limit of \$75,000.

12. Pursuant to 28 U.S.C. § 1332(a), this Court has original jurisdiction over this civil action in that it involves a controversy between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Thus, removal is proper in accordance with 28 U.S.C. § 1441(a).

13. LM General has not filed any responsive pleadings in the State Court Action.

14. Upon review of the register of actions for the State Court Action, defendant Noah C. White (“White”) has not been served with the Summons and Complaint and also has not filed any responsive pleadings. LM General anticipates that White will consent to removal of this action to the Western District of Michigan.

15. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is being filed within 30 days after LM General’s receipt of the Complaint on December 30, 2022.

16. Concurrently with the filing of this Notice of Removal, by means of the Notice of Filing Notice of Removal filed in the State Court Action and attached as Exhibit C, LM General is providing notice to Plaintiffs and the Oceana County Clerk

of Court of this (a) Notice of Removal; (b) the fact that this action is to be docketed in this Court; and (c) that this Court shall hereafter be entitled to grant all relief to LM General as is proper under the circumstances.

17. LM General reserves the right to supplement this Notice of Removal if it becomes necessary to do so.

WHEREFORE, Liberty Mutual requests that this action proceed in this Court as a removed claim or cause of action under 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted,

COLLINS EINHORN FARRELL PC

BY: s/ Nicole E. Wilinski
Nicole E. Wilinski (P61904)
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Dated: January 25, 2023

PROOF OF SERVICE

Nicole E. Wilinski says that on the 25th day of January, 2023, she served a copy of *NOTICE OF REMOVAL OF CASE TO THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION* and this Proof of Service on counsel of record by email and by placing same in envelope(s) properly addressed to:

Kecskes, Gadd & Parker, P.C.
Keith J. Kecskes
Troy T. Gorman
621 S. Main Street
Plymouth, MI 48170
keith@kgplawyers.com
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and depositing said envelopes in the United States mail, postage thereon fully prepaid.

I hereby declare that the statement above is true to the best of my knowledge, information and belief.

s/ Nicole E. Wilinski

NICOLE E. WILINSKI